

REMARKS PREPARED FOR DELIVERY

Opening Statement of Chairman Delahunt

Hearing on

U.S. Department of Homeland Security Inspector General

Report OIG-08-18: The Removal of a Canadian Citizen to Syria

June 5, 2008

Thank you Chairman Nadler.

This is the second hearing we have held jointly examining the case of Mr. Maher Arar. It is imperative that the public learns the truth about what happened to him. For justice demands no less.

This case is important because it illustrates how the policy of extraordinary rendition can go horribly askew. For those unfamiliar with the term “extraordinary rendition,” I am referring to the practice by the Bush Administration and the prior Clinton Administration in which individuals suspected of links to Al-Qaeda and other terrorist organizations are seized and transferred to countries such as Syria, which according to the State Department, systematically utilize torture. To quote Michael Scheuer, who we welcome back today as a witness, “It’s basically finding someone else to do your dirty work.”

But what if we grab the wrong guy? What if we make a mistake? The rendition of Maher Arar was just such a mistake. A tragic mistake that

– befitting American justice and values – demands acknowledgement and redress.

The facts of Mr. Arar’s case are profoundly disturbing. Rather than kidnapping someone off the streets in one country and bringing him to another for interrogation, our government took Mr. Arar into custody at JFK Airport - *on US soil* - while awaiting a connecting flight on his way home to Canada. The Administration would have you believe that this was nothing more than an ‘expedited removal.’ No one be fooled – this was no simple immigration matter.

Mr. Arar was detained in New York, interrogated relentlessly and denied an opportunity to make a single phone call for 7 days. The INS and DOJ wanted him not just removed – but sent to Syria. So the Acting Attorney General Larry Thompson made a determination that it was “prejudicial to the interests of the United States” to send him back to Canada.” Over Mr. Arar’s objections and without notice to Canada, he was placed on a private airplane, flown to Jordan, and then driven to Syria -- a country he last lived in as a teenager. Now former Attorney General Gonzales has testified that diplomatic assurances were obtained from Syria that Mr. Arar would not be tortured. But I think it’s not a surprise to anyone that he was still tortured --and kept in a grave-like cell for the majority of his year-long detention. In all this time, Mr. Arar was never charged with a crime. Never given a hearing. Never afforded due process as we understand that concept.

After the Canadian Government obtained his release, it conducted its own review of the case – consistent with that critical democratic principle of accountability. The independently constituted “Arar Commission” spent two and a half years investigating the matter and produced an exhaustive factual report and policy review. Justice Dennis O’Connor, the Commissioner of the Inquiry, concluded, and I quote: - - “There is no evidence that Mr. Arar was ever linked to terrorist groups” and “I am able to say categorically that there is no evidence to indicate that Mr. Arar has committed any offence or that his activities constitute a threat to the security of Canada.”

On this side of the border, Congress has also tried to get to the bottom of this matter. The then Ranking Member of the Judiciary Committee, Rep. John Conyers, requested an investigation by the Inspector General of the Department of Homeland Security. That was in December of 2003. Yet it was not until December 2007 – four years later -- that the report was completed. A report, mind you, that was classified -- no public report like that issued by the Arar Commission in Canada.

Today we are going to examine the process by which this report was prepared. The bottom line is that it took far too long for this report to be issued. And when issued, it was restricted by issues of classification and privilege. All that the public got was a simple recitation of facts.

I commend the Inspector General Skinner for his efforts in providing us today with a newly redacted version of the report. I understand this version will be publicly available after this hearing. I believe this is an

important step forward in providing some measure of public accountability. But even this new redacted version we have today contains large portions that are blacked out due to classification and privilege.

Well, the American people have a privilege as well -- A privilege to demand a full accounting from its government when it deviates from its responsibility to uphold American values. Here was a report that should have told us what went wrong -- it should have told us how we can make sure that no other person suffers as Mr. Arar has done. But those agencies or individuals who played a role in Mr. Arar's case seemed to have made it very difficult for the Inspector General's Office to get a comprehensive report out the door! And the OIG could have pushed back harder.

I hope that the Inspector General will re-open his investigation because it does not address two key questions: 1) on what basis did our government determine that it would be "prejudicial to the interests of the United States" to send Arar back to Canada; and 2) what assurances did Syria give that Arar would not be tortured if we were to be send him there?

On the first point, the report states "We do not know on what basis the Acting Attorney General deemed Arar's return to Canada as prejudicial to the interests of the United States." I am baffled by this statement. Why not? What happened? Did no one provide you with some kind of justification? Should you at least been able to see some classified evidence that could explain this decision? Did you ask for it?

Or perhaps you did but there was no evidence at all to provide? I hope we can get to the bottom of this today.

On the second point, I read the following line from the redacted report and from your testimony, Mr. Skinner: “The assurances upon which INS based Arar’s removal were *ambiguous regarding the source or authority purporting to bind the Syrian government.*”

“Ambiguous regarding the source or authority”! How could it be that the OIG found that the INS appropriately followed procedures with respect to the Convention against Torture when the assurances were ambiguous regarding the source or authority? And, and I quote “the validity of the assurances to protect Arar appears not to have been examined” ? What kind of procedures permits assurances that aren’t even examined?

Nor does this report even address my main concern about the assurances, which is -- how could any assurances from Syria be deemed reliable? This is after all -- the same country that President Bush cited for its “legacy of torture, oppression, misery and ruin,” and that the State Department routinely condemns in its annual country reports for torture! And now we hear that the assurances received from this country were ambiguous as to source and authority! I find that incredulous! How assurances from an unknown source within a government that routinely tortures, according to President Bush, are found sufficiently reliable for purposes of the Convention against Torture is simply beyond me!

I believe the difficulties faced with this report are symptomatic of a larger problem – the failure of the Bush Administration to come to terms with its own mistakes. The Canadian Government has set an outstanding example of how a democratic government should act when it commits a mistake. Our government should follow their lead.

We have betrayed our core values in this matter. Values that American and Canadians share. Values that set us apart among the family of nations and gives us a claim to a moral authority inherent in great democracies. Until we acknowledge our mistake and attempt to make amends, we don't deserve to invoke that authority.

Thank you.